

REMARKS

Claims 1-8 and 17-20 are now pending in the application. Claims 21-25 have previously been withdrawn and claims 9-16 have been cancelled. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein. No new matter has been added.

REJECTION UNDER 35 U.S.C. § 112

Claims 1-8 and 18 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, claims 1, 2, 6, 7 and 18 recite “the interference point” without sufficient antecedent basis. This rejection is respectfully traversed.

Applicants have amended claims 1, 2, 6, 7 and 18 to include the term “deformable” thereby provide sufficient antecedent basis.

In view of the above remarks, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 1-8 and 18.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-8, 17, 19 and 20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Paul (U.S. Pat. No. 7,255,699). This rejection is respectfully traversed.

Applicants note that claims 1 and 17, as amended, include, in relevant part, the following recitation: “wherein the deformable interference point is a portion of the unitary body of the plate.”

Paul fails to teach, disclose or suggest claims 1 and 17, since Paul does not have a deformable interference point that is a portion of the unitary body of the plate. In the Office Action, the top inner edge 66 of the band 14 was suggested as meeting the deformable interference point recitation of claims 1 and 17. However, band 14 is not a portion of the plate 12 of Paul. Rather, as disclosed in Paul, band 14 is a separate member that is constrained or retained against plate 12 by band retainers 16A. See Paul, col. 5, lines 55-58; col. 6, lines 3-10.

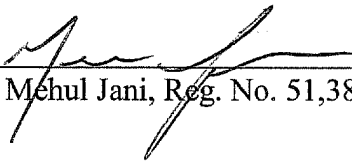
In view of the above remarks, Applicants respectfully request the Examiner to reconsider and withdraw the rejections of claims 1 and 17. Since claims 2-8 depend from claim 1 and claims 19 and 20 depend from claim 17, for the same reasons applicable to claims 1 and 17, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 2-8, 19 and 20.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned attorney at (610) 415-9000 x1174. No additional fees are believed due for this submission, however, if any additional fees are required; please charge such fees to Globus Medical Deposit Account No. 50-4131.

Respectfully submitted,

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